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Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
DIVISION OF TELECOMMUNICATIONS  
ADMINISTRATIVE SERVICES

In the Matter of

Amendment of Parts 2, 15, 18 and Other  
Parts of the Commission's Rules to Simplify  
and Streamline the Equipment Authorization  
Process for Radio Frequency Equipment

ET Docket No. 97-94

**COMMENTS OF MOTOROLA, INC.**

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## Summary

The equipment authorization program stands out as a useful tool for spectrum management allowing only equipment to be marketed that has been shown to comply with standards designed to lessen the likelihood of interference. In this proceeding the Commission has the opportunity to revise the equipment authorization program to make it more responsive to manufacturers and users of wireless communications and computing equipment. To address dramatic changes in the marketplace that in recent years have significantly accelerated product development and shortened product life cycles, Motorola urges the Commission to implement a 10 day processing goal for most equipment authorization applications.

The current 40 day or greater cycle time exacts an enormous cost for applicants. Today, product life (*i.e.* the time before a new model must be introduced) is often about 400 days or less. Nearly 10 percent of this time is now spent at the starting gate under the current system. The sales lost in this environment are seldom, if ever, recouped. In 1996 the Commission issued about 6,100 authorizations. If each authorization had been granted 30 days sooner, it is clear that both manufacturers and consumers would have benefited substantially. Accordingly, implementation of the 10 day goal will have significant economic effects throughout the industries whose products are regulated by the Commission.

While ambitious, Motorola believes, the 10 day goal can be achieved through the following efforts:

- Elimination of front end delays to allow direct submittal of applications to the FCC Lab for processing while still utilizing the Mellon Bank in Pittsburgh as a fiscal agent;

- Use of the Declaration of Conformity approach as the exclusive means for authorizing personal computers and peripherals;
- Implementation of electronic filing;
- Use of sampling techniques and different levels of scrutiny by application type in the review process to reduce the current backlog and minimize its recurrence; and
- Implementation of expeditious post-grant equipment sampling under the proposed 14 day timeframe, but under a modified process which would avoid the confusion that would arise through the use of the proposed voucher system for the purchase of samples in the marketplace.

Motorola also urges the Commission to recognize the world trade ramifications of the equipment authorization process by:

- Maintaining a program by which the Commission issues approvals for most transmitters that operate in licensed services, and
- Implementing a voluntary system for registering Declarations of Conformity in order to respond to those countries that require a grant of authorization by the U.S. FCC before they will permit the entry and marketing of American-made equipment.

In revising the equipment authorization process, Motorola recommends that the Commission:

- Not combine the type acceptance and certification programs as the potential for confusion would appear to outweigh any possible benefit;.
- Eliminate the “notification” category and place equipment now in that category under the Declaration of Conformity approach or the verification process;
- Simplify the way in which transfers of control and the purchase of an equipment authorization holder’s assets are treated under the equipment approval rules;
- Maintain the flexibility now accorded under the private label and manufacturing license regulations to permit holders of equipment authorizations to authorize others to manufacture approved equipment with or without its bearing the name of the grantee, provided that the grantee remains responsible to the Commission for compliance;
- Expand the Declaration of Conformity approach to encompass Family Radio Service transceivers; and
- Revise the permissive change rules to accord a greater degree of flexibility.

These changes will not only provide a means for helping to meet the 10 day processing goal, they will provide manufacturers and spectrum users the flexibility needed to compete and to benefit from new technologies and services.

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Motorola, Inc., hereby submits its Comments in response to the Commission's *Notice of Proposed Rule Making ("NPRM")* released March 27, 1997.<sup>1</sup> Motorola commends the Commission for this effort directed toward improvement of the equipment authorization process. For the reasons set forth herein, Motorola urges the Commission to implement the goal of granting most equipment authorization applications within 10 days of receipt.

**I. Interest**

Motorola is the nation's leading manufacturer of radio equipment for the various wireless services. In addition, it is one of the world's leading manufacturers of semiconductors employed in equipment subject to the Commission's equipment authorization process. Last year, the Commission issued more than 120 equipment authorizations to Motorola. This represents

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<sup>1</sup>A summary of the *NPRM* was published in the *Federal Register* on May 5, 1997, 62 Fed. Reg. 24,383.

about two percent of all FCC equipment authorizations issued in 1996. As both an applicant for equipment authorizations and as a supplier of components to other applicants, the Commission's equipment authorization program affects Motorola directly and indirectly. Having participated in the program since it was first applied mobile equipment, Motorola offers these comments from the perspective of a user and supporter of the Commission's equipment authorization program. At the same time, it is imperative that the program's cycle time be improved to keep pace with changes in the market.

## **II. The Commission Should Adopt the Goal of 10 Day Processing for Most Applications.**

Motorola recommends that the Commission implement a 10 day cycle time from application submittal to grant. While ambitious, such a goal appears to be very much within the "art of the possible."<sup>2</sup> By implementing such a goal the Commission will encourage the submittal of high quality applications. In essence, the Commission will be telling applicants, "if you do your job well, we'll work for an expeditious grant of your application."<sup>3</sup> The Commission also would demonstrate by the 10 day goal its commitment to meeting its draft Strategic Plan to:

- Design and implement re-engineered licensing and authorization processes to reduce the time it takes for existing licensees to obtain approval for the introduction of new or improved telecommunications services;

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<sup>2</sup> The *NPRM* suggests that a 20 day goal is feasible. *NPRM*, ¶1.

<sup>3</sup> To the extent that the Commission's staff must await answers to any necessary questions, 10 day processing may be delayed. Applicants, however, will have an incentive to submit high quality applications so as to reduce such inquiries.

- Encourage competition in the telecommunications industry through procompetitive deregulatory rulemakings, reducing consumer costs and increasing the telecommunications choices available to consumers; and
- Reduce reporting requirements and, thereby the costs imposed on licensees and the general public by eliminating unnecessary rules and burdensome regulations.<sup>4</sup>

Dramatic changes in the marketplace drive the need for the 10 day goal. The last decade has ushered in major changes in the way most electronic equipment markets function. Lead times have shortened to a fraction of those that were common when the equipment authorization rules were last overhauled. Product life cycles have gone from being measured in years to weeks. Development, which was reckoned in weeks and months, now flows in terms of days. Manufacturing has been subjected to a concomitant decrease in lead time as improvements in order-taking and transportation have shortened the time that components and finished goods spend in storage and transit. While these developments have had the beneficial effect of bringing consumers new and often more spectrum-efficient technologies with increasing speed, these changes present substantial challenges to those tasked with the design, approval, and manufacture of products.

Today, the flow of information fuels the engine of commerce to a greater extent than ever before. As Commission actions authorize new radio services and greater competition in delivery of those services, the demand for equipment builds. To meet this demand, designing the first generation of equipment usually begins before the regulations are finalized. While manufacturers recognize the risk inherent in such a process, the need to meet customer demands

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<sup>4</sup> Draft Strategic Plan, FCC Public Notice, July 17, 1997.



usually drives risks into the acceptable range even if minor modifications to the final design are needed to reflect regulations ultimately adopted. For licensees, an increasing number of whom have bought licenses at auction, the need to implement systems quickly in order to achieve a return on investment of substantial up-front costs and to meet construction deadlines is greater than before. Existing licensees, too, are faced with a notably different environment. The days of large inventories of equipment held by licensees and distributors are giving way to increased dependence on “just-in-time” supply by manufacturers. Similarly, the era of massive parts inventories at manufacturers is giving way to smaller inventories replenished via overnight delivery.

These changes have only increased the challenges faced by manufacturers. Those who build equipment must react more quickly to the innovations inherent in a very competitive environment that demands efficiency. In years past, the cost of slippage (*i.e.* delay in getting to market) by failing to attain full production early could sometimes be made up at the end of the product life cycle. Those days are over. In the current environment, even for lower volume products, the loss of a week can mean the sale of a great number of units is delayed, or even lost forever. When the life of a product is 400 days instead of two to five years, a 40 day cycle time for equipment authorization means that 10 % of the life of the product has been spent at the approval gate.<sup>5/</sup> In today’s environment, these lost sales are unlikely to be recovered. Accordingly, a 30 day reduction in cycle time would benefit both consumers and manufacturers.

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<sup>5/</sup> While products generally can last much longer, the market now requires new models to be implemented at increasingly shorter intervals, *i.e.* product life cycles are becoming shorter.

In this era of increased competition for time and market, it is important on the Commission to devise programs that balance the public's interest in the efficient creation and distribution of goods and services with the need to manage the spectrum to reduce the likelihood of interference. Manufacturers also have the obligation and should have the incentive to work with the Commission to implement an equipment approval process that maintains the requisite level of control without unduly impeding innovation and efficiency. To this end, Motorola recommends certain steps that should help to make the 10-day processing goal feasible without unduly risking any increase in interference. In making these recommendations, Motorola assumes that the Commission will be unable to place additional human resources at the disposal of the equipment authorization program even though Motorola submits that the overall public interest would be served by devoting more staff to this effort.

### **III. The Commission Should Eliminate Front-End Delays.**

One theme of the *NPRM* calls for removing impediments that hinder applications from getting to reviewers. These front-end delays should be eliminated as they provide no value-added to the process. Currently, there are delays inherent in the fee payment process. Applications, which are frequently more than an inch thick and contain materials in various forms including photographs and spectrum analyzer scans, are first directed to the Mellon Bank in Pittsburgh with checks for payment of the processing fee. At the bank, the checks are removed and deposited, but clearly bank staff have no need to review the actual application. Applications then move to the Fee Branch in Washington where the applications are logged in and sorted for distribution to the Evaluation and Authorization Division of the Office of Engineering and Technology at the FCC Laboratory in Columbia, Maryland. If all goes well, up to ten days of the typical current 40 day cycle time is devoted to this process. The Commission

should implement processes readily available to all applicants that would have Mellon Bank perform as a fiscal agent without the delay of shipping applications first to Pittsburgh, then to Washington and finally to Columbia. Some progress has been made through the use of wire transfers and deposit accounts to allow filing at the FCC Secretary's office. This system, however, still involves an inordinate amount of physical handling as applications must be funneled first through Washington en route to Columbia.<sup>6</sup> More importantly, there is no value added for the applicant in such a circuitous route. Although electronic filing may reduce these delays, reforms should not wait until nor be dependent upon the introduction of electronic filing.

The Commission needs a way to match accurately and in an automated manner payments received by the Mellon Bank with applications filed directly at the FCC Lab. To the extent that this cannot be accomplished by machine reading of the FCC ID number entered on Form 731, an alternate means should be devised. One method would be for applicants to encode the FCC ID number into barcode that could accompany the payment to the Mellon Bank in the form of a check or be sent electronically via a credit card or other means of electronic funds transfer. Once payment has been received, the Fee Branch could be notified by the bank electronically. The same code could then be scanned at the FCC Lab upon actual receipt of the application. At the time a "recommendation for grant" is entered into the database, the payment records could be compared electronically to verify that the appropriate fee had, in fact, been paid. Alternatively, the comparison against the bank record could be made electronically at the time the lab receives

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<sup>6</sup> This contrasts with wireless applications for which the fee is paid by wire transfer or deposit account. Such applications may be sent directly to the Commission's processing facility in Gettysburg. It also contrasts with tariff filings for which the fee is paid to the Mellon Bank, but the associated material is delivered directly to the Tariff Division in Washington, D.C.

the application. While checking at the beginning of processing might reduce the chances for error and failure to pay, it would decrease the efficiency gains that could be achieved if the payment verification were run either during (*i.e.* 5 days after receipt of the application at the Lab) or after evaluation. Obviously, parallel processing by which the payment determination is made within a few days of receipt at the Lab could yield the greatest benefit. This would provide sufficient time for the bank and the Commission to exchange payment data electronically. It would also reduce the chances of delay at the end of the processing cycle. If the fee determination were to reveal an underpayment, the grant could be delayed until receipt of the correct amount. The applicant could be notified by email or automated fax that there was a problem with the fee.

To reduce further the delay associated with the clearance of checks, Motorola urges the Commission to consider the use of vouchers or special money orders that could be issued by the Mellon Bank. Payment using such "FCC Dollars" would be tantamount to employing a deposit account, but could allow manufacturers additional flexibility in the payment method and in their own internal record keeping. Such a process would, for example, allow a program manager to use his company's accounting and requisition process to purchase such a restricted money order several days in advance of the filing of the application so that the matter of the check's clearance could be resolved well in advance of receipt of the application.<sup>7</sup>

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<sup>7</sup> The bank would have the benefit of the float under such a plan, but the Commission and applicants would benefit from more expeditious processing. The voucher would carry a serial number. A copy of the voucher could be included with the applications as evidence of payment having been made.

In short, direct filing of the application with the FCC Laboratory would reduce the handling and delay inherent in the current system. While the *NPRM* contemplates that such delays would largely disappear with the advent of electronic filing, improvements of this kind should not wait until electronic filing becomes a reality. As recommended above, implementation of direct filing with the FCC Lab could be facilitated by tracking applications through the careful recordation of the FCC ID number at the time payment is received and the time the application is received at the FCC Lab. The matching of these receipt records could occur within a few days of the receipt of payment in parallel with the review of the application. Such a change in the process would decrease overall cycle time with no loss of fiscal integrity and a decrease in the likelihood that an application could be misdirected on its way to the FCC Lab.

#### **IV. Certification of Personal Computers and Personal Computer Peripherals Should be Phased Out and Replaced by the Declaration of Conformity Approach.**

In 1996 the FCC implemented the Declaration of Conformity ("DoC") approach for the authorization of personal computers and personal computer peripherals. The DoC approach promised to free significant FCC resources that could be devoted to the review of other applications. Personal computers and peripherals continue to account, however, for more than half of the certification authorizations issued by the Commission.<sup>8</sup> While the number of such applications has declined, these two categories still account for a major portion of the workload

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<sup>8</sup> According to the equipment authorization databases, there were 4902 Certifications, 700 Type Acceptances and 474 Notifications (280 "non-transmitter", 194 "transmitter") for a total of 6076 equipment authorizations issued in 1996.

as shown below:

	1995				1996				1997	
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
Certifications	1291	1344	1339	1082	1391	1149	1325	1037	881	816
Class B Computers & Peripherals	1010	1051	1028	829	1084	829	975	701	552	473
Percentage Class B	78%	78%	77%	77%	78%	72%	74%	68%	63%	58%
Computers (JBC)	338	395	345	262	302	243	283	184	113	94
Peripherals (JBP)	672	656	682	567	782	586	692	517	439	379

Accordingly, the proposal set forth in the *NPRM* for shifting all personal computers and peripherals to the DoC approach should be implemented to reallocate resources to assist the Commission in reaching the goal of 10 day processing for most applications.

#### **V. The Commission Should Implement Electronic Filing.**

Electronic filing will yield major improvements in efficiency in the processing of applications. However, equipment authorization applications are – and likely will remain – far more complex than most other applications handled by the Commission. Thus, while Motorola encourages the Commission to move as quickly as is prudent toward electronic filing, it recognizes that such a process presents numerous hurdles to be overcome. Even with the implementation of a clear standardized format, electronic applications will likely contain voluminous amounts of data, particularly if photographs, instruction manuals, and schematic diagrams remain a part of applications. Assuming the use of universally recognized data compression techniques, the typical application for equipment now subject to type acceptance will likely range from 5 to 12 MB of data. Electronic transmission of such large files to the

Commission likely would swamp existing data receipt capabilities at the Commission and would pose challenges for applicants that lack high capacity data communications capabilities.

Because of the problems to be resolved with electronic transmission, Motorola recommends that electronically filed applications initially be submitted in an inexpensive but high capacity medium such as CD-R (*i.e.* a recordable CD ROM that allows one to write one time and read many times). Such a medium would have numerous advantages over paper or electronic transmission at the current time. The disks can hold in excess of 700 MB of data. Blank disks are relatively inexpensive (about \$10 each in small quantity). The disks occupy little space and could easily accommodate a written label with the applicant's name and FCC ID number clearly visible. With proper storage, the medium can be expected to have a life of many years. If necessary, the data on the disks could later be copied to another medium. Such disks would also provide a convenient means for separating confidential material from that which eventually would be made public. An applicant would simply submit the application and public exhibits on one disk and the confidential material on another.<sup>9</sup>

While the Commission may receive comments in this proceeding as to the actual application format, Motorola urges the Commission to continue convene meetings with industry representatives to work out the details for such filings. The nature of the process requires the kind of dialog and exchange of ideas that is difficult to accomplish within the strictures of the rule making comment, reply, and the usual *ex parte* processes.

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<sup>9</sup> Indeed, the confidential portion could probably fit onto a 1.44 MB floppy disk in most cases.

## **VI. The Processing Model Should Be Revised.**

Reducing the time it takes an application to reach the reviewers desk will solve only part of the problem associated with meeting the 10-day processing goal. Once the front end delays have been eliminated, absent further changes, the time needed to process most applications will be about 30 days – three times as long as the 10 day goal. Accordingly, more must be done. The Commission has the discretion to manage its engineering talent so as to focus more attention on certain areas. Not every category of equipment -- even if subject to the same kind of equipment authorization -- merits the same level of review routinely. To this end, Motorola urges the Commission to direct its staff resources toward the areas of greatest potential concern. As a general principle, these would appear to be first generation products in new services and the first generation of equipment employing significantly new technologies in existing services.

Thus, not every application need be subjected to the same level of review. The Commission could, as suggested above, accord closer review to certain categories of applications. The agency could also select applications at random to subject to a more audit like review.<sup>10</sup> In this manner, the Commission would leverage its resources in order to focus on likely problem areas while still working to meet the 10 day processing goal.

## **VII. Sampling Supports the Commission's Equipment Authorization Program.**

The sampling of equipment should remain part of the equipment authorization process. There may be times in which this must be done in order to resolve serious doubts as to

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<sup>10</sup> Sometimes the filing of an application that becomes public serves a beneficial purpose even without close review by the agency initially as others may later examine the application. Thus, many tariff filings are allowed to go into effect on one day's notice. This is not to equate tariff filings with equipment authorization applications. However, not all equipment authorization applications, even within the same approval category merit the same level of review.



compliance. At other times, the selection of equipment will afford the Commission an opportunity to gain first-hand information about new technologies while helping to police the overall process. In those cases in which samples are requested, the application for which the sample is sought should continue to be processed and granted on a conditional basis only if there is a substantial question as to compliance should the grant be delayed.<sup>11/</sup> Applicants would then be able to assess the risk of fielding product for which the authorization may be withdrawn. Should the sample be requested because substantial doubt exists in the mind of the reviewer that the equipment complies or has been measured correctly, the Commission would, of course, have the discretion to delay the issuance of the grant until measurements could be made. In such a case, however, the fact that processing of the application and issuance of the grant would be held up pending measurement should be communicated clearly to the applicant with appropriate justification so that both it and the Commission can expedite the submission and testing of the equipment. Post-grant sampling also should be retained as part of the Commission's efforts to maintain compliance with the equipment authorization rules.

The proposal to require manufacturers to provide vouchers to the Commission for the purchase of equipment, however, is fraught with problems. Unlike the sort of discount coupons common in the grocery industry, these vouchers would purport to reimburse the retailer for the full retail price of the equipment. In many cases, however, the holder of the grant of equipment authorization and the retailer will have no contractual relationship. For example, the retailer may have obtained its inventory from a wholesale distributor. Motorola believes that retailers will be

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<sup>11/</sup> Motorola believes such cases are rare.

understandably reluctant to honor what will probably be a form of voucher rarely seen by most clerks. Thus, questions will inevitably arise as to the validity of the vouchers.<sup>12</sup>

Because of the potential for fraud, the need for training retailers, and the communications problems inherent in such a process, Motorola submits that the proposal for vouchers to be issued to the Commission by manufacturers should not be implemented. If sampling of product from retail stores is needed as part of the Commission's enforcement efforts, the Commission should buy the product and then look to the manufacturer for reimbursement upon documentation of the price paid. The rules could provide, for example, that as a condition of accepting a grant of equipment authorization, the grantee agrees to reimburse the Commission for the retail purchase of not more than a specified number (*e.g.* three) of units of the equipment covered by the grant during a period of some years (*e.g.* two) following issuance of the grant. A process of this kind will reduce the possibility of problems at the retail level. It will also make it possible for the Commission to purchase equipment in a much more covert way should that be desirable. Accordingly, Motorola urges the Commission to adopt measures that would be an alternative to the proposed retail purchase voucher system.

The Commission also proposes to change the time for submittal of a post-grant sample to 14 days. This contrasts with the current 60 day period provided in Section 2.946(a)(2) -- a decrease of some 75%. Like the goal of reducing the processing time for most applications by 75% from 40 days to 10, this, too, is ambitious but possible. In large companies, there is a

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<sup>12</sup> Sampling of this nature is to be distinguished from the seizure of equipment that has been marketed unlawfully. In the latter case, the Communications Act provides procedures by which the Commission may proceed *in rem* against the offending merchandise without paying for the equipment. 47 U.S.C. § 510 (1996).

greater likelihood that the sample request could be misdirected.<sup>13</sup> The request for a sample will likely come into a company through a channel that is apart from the normal order receipt process. Companies that use contract manufacturing and warehousing may literally have to go outside the company to honor the request. To facilitate the prompt submission of samples, the Commission should offer companies the option of providing the Commission a special address to which such requests will be directed.<sup>14</sup> The request should also be sent via both fax and email if a company has provided the Commission with information for this purpose.

Finally, regardless of the process reforms that flow from this proceeding, Motorola urges the Commission to maintain a program by which the agency approves most transmitters that operate in licensed services. Thus, Motorola would not favor at this time the complete privatization of the equipment approval process. The equipment authorization program serves as an important tool for domestic spectrum management. By evaluating equipment before it reaches the market, the Commission can prevent potential compliance problems. Such an approach affords the agency leverage it could not otherwise obtain. While there are limited exceptions, the post market resolution of interference is generally more expensive and less efficacious than achieving the requisite measure of compliance through the equipment

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<sup>13</sup> Motorola has worked to improve the communications with the Commission on equipment authorization matters by using separate grantee codes with corresponding mailing addresses for major business divisions within the company and by maintaining a Washington, D.C., government relations office.

<sup>14</sup> Such an approach would, for example, reduce the likelihood that a request will be misdirected by an internal mail system and that plans can be implemented to provide for the prompt processing of the request even in times of personnel absences due to vacations and illnesses. Thus, while no system is perfect, with cooperation between the Commission and those it regulates, a more efficient approach to the submission of samples can be devised.

authorization program.<sup>15</sup> For this reason, the Commission operated approval program for most transmitters should be continued.

**VIII. The FCC Should Consider the Significant World Trade Ramifications of its Equipment Authorization Program.**

The Commission's equipment authorization program plays a salutary role in international spectrum management and in world trade. Other nations frequently look to the FCC's grant of equipment authorization as the ticket for access to their markets. Correctly reasoning that the Commission's imprimatur signifies the likely compliance of the device with reasonable standards, certain nations recognize FCC grants of equipment authorization in lieu of requiring local approval. This process effectively opens these markets to those manufacturers who have earned the right to sell within the United States. As such, the FCC's equipment authorization program can afford major benefits to companies in the development of additional markets.

Indeed, one of the drawbacks to the Declaration of Conformity approach recently adopted by the FCC is that it does not, in the view of all administrations, necessarily carry with it the official stamp of approval by the Commission. This view is held notwithstanding the use of the

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<sup>15</sup> There are rare situations in which the best resolution of interference issues comes from obligations imposed directly on licensees involved in the matter rather than on all who might employ similar equipment. For example, in some situations a higher degree of spurious emissions suppression may be needed if licensees at the same or nearby sites are to operate in a compatible manner. In such cases, however, it makes little economic sense to impose these added costs of compliance on all users through more stringent suppression standards, particularly where the techniques of greater suppression can be achieved by the use of post-manufacturing techniques that are readily achievable by the licensees involved. There may be other areas in which the need for experimentation or demonstrated expertise of the licensee militate against an equipment authorization process. The Experimental Radio Service, developmental operation in other services, and certain Amateur Radio Service operations stand out as exceptions to the need for equipment approval.

FCC logo by the declaring party and the efforts of the Commission to craft the program to be compatible with the approaches used by some administrations.<sup>16</sup> Countries that share this view want to see an actual grant of equipment authorization issued by the Commission. Additionally, some countries require the submission of a copy of the FCC grant of equipment authorization before customs officials will permit goods to enter. In order to address these needs, Motorola urges the Commission to establish a voluntary mechanism whereby companies that need to rely upon their own declaration of conformity in order to export product to nations that will only recognize an FCC grant may register their DoC with the Commission and receive from the Commission a grant of equipment authorization recognizing that the DoC has been registered by the applicant.<sup>17</sup> The approach could be referred to as a *Registered DoC*.

#### **IX. The Categories Should be Streamlined Very Carefully.**

The elimination of the type acceptance category and the use of the certification category formerly subject to type acceptance will likely lead to confusion during the transition. Motorola urges the commission to decline at this time to combine type acceptance and certification. The

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<sup>16</sup> While mutual recognition agreements can remedy this lack of recognition, the problem arises most often with countries that simply prefer to look to the U.S. approval process (e.g., certain Latin American countries, Malaysia, and Israel).

<sup>17</sup> This mechanism could be akin to notification or it could provide for the submission of the measurement and other information that would be part of the file supporting the declaration of conformity.

marginal benefits from such an approach are unlikely to outweigh the potential for confusion that will flow from such a change in form.

Motorola supports the elimination of the “notification” category and its replacement with the DoC approach. However, as noted above, the Commission should move to implement a means by which a DoC may voluntarily be registered with the Commission to accommodate those cases in which the holder of the DoC wishes to pursue international opportunities. In this manner, the cycle time would be improved in the U.S. market while assisting manufacturers to gain entry to other markets as well.

The verification and the Declaration of Conformity approaches should not be combined. Both methods are now understood. Combining these two would likely lead to confusion and would impose additional “information to user” requirements on those who make devices now subject to verification. If there is a need to provide additional compliance information to users of a particular category of equipment, then the Commission should consider placing that category within the DoC program.

Should the Commission proceed with combining the verification category and the DoC approach, the Commission should make clear those types of equipment that must be tested at an accredited laboratory. Motorola has obtained accreditation for certain of its laboratories and plans to add additional accredited labs. In some cases, however, measurements can be made competently in laboratories that are not accredited. Equipment is placed into the verification category only when there is little risk of its being manufactured or marketed in a way that is likely to lead to interference. Thus, the need for accreditation should be balanced with the need to foster efficiency. Use of accredited labs should be mandated when needed to maintain the

quality of testing and to provide the oversight deemed necessary in support of mutual recognition agreements with other countries.

**X. Grantee Transfers of Control and Changes of Ownership Should Be Handled on A Straight-Forward and Simple Basis.**

The *NPRM* sets forth in the proposed revisions to Section 2.929 rules designed to clarify the Commission's policies on the sale of businesses holding grants of equipment authorization. Section 2.929 would appear to recodify the current practice by which transfers of control brought about by the acquisition of a controlling interest in the stock of a company are simply notified to the Commission, but the Commission retains the discretion to require the submittal of a new application. This approach appears to have worked well in most cases. The old rule, however, does not lend itself well to those cases in which all or some of the assets of a company are acquired (*i.e.* an asset acquisition rather than a stock purchase). The proposed revised rule is an improvement in the case of the sale of a company's assets.

**XI. The Commission Should Revise the Proposed Private Label Rules.**

The proposed rules as they pertain to so-called private label arrangements are a step backward. Currently, only the holder of a grant of equipment authorization can authorize another to build the equipment. The grant holder may also use various trade names and model numbers without prior FCC approval.<sup>18</sup> This contrasts with a prior regulatory approach that required new applications whenever model numbers were changed or whenever trade names were added. So long as the grantee remains responsible for compliance, the Commission should not, as called for in the note in proposed Section 2.929(b)(1), require the filing of another application. By

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<sup>18</sup> 47 C.F.R. § 2.924 (1996).

permitting the FCC ID number incorporating its grantee code to be affixed to equipment of the same design, the grantee assumes the obligation of compliance.

While there may be valid commercial and other legal reasons for a grantee's refusal to let licensee manufactured equipment bearing the FCC ID number assigned to the grantee carry the grantee's name, the Commission still retains the authority to take action against the grantee as the "responsible party." Should the Commission find that the grantee is no longer in business or is unwilling or unable to comply with its obligations, such a finding would be evidence that the entity applying the FCC ID number has become the "real party-in-interest" and should, therefore, be subject to any enforcement action that would otherwise be directed toward the grantee. The proposed rule, however, would impose a burden to all such licensing and manufacturing arrangements by requiring the submission of a new application.<sup>19</sup> At most, arrangements of this kind should be subject to a notice requirement and not to the filing of a separate application and the use of a different FCC ID number.

## **XII. The FCC Should Expand the Declaration of Conformity Approach.**

The *NPRM* asks whether any equipment now subject to certification should be subject to the DoC approach or verification. Motorola urges the Commission to shift Family Radio Service (FRS) transceivers to the DoC category. Although operating in a relatively new service, these devices are low powered and utilize basic designs that derive from long-standing work in the industrial radio services. Innovation in FRS transceivers will occur in size, weight, and features,

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<sup>19</sup> Ironically, a grantee intent upon abandoning its obligations could license another to build and market the equipment under the grantee's name without the prior approval of the FCC.



but the basic design concepts and modulations are likely to remain well settled. For this reason, there should be little risk from a spectrum management standpoint in shifting these devices to the DoC category.

### **XIII. The Commission Should Revise the Permissive Change Rules.**

As currently written, the permissive change rules give rise to a lot of internal interpretations as manufacturers wrestle with whether it is necessary to file for authority to make permissive changes or whether an entirely new application must be submitted. Motorola urges the Commission to revise the permissive change rules. The rules stem from an era in which equipment was designed and manufactured differently and did not change as often. Today, it is common for cost reduction efforts to achieve greater and greater degrees of component integration. Circuits that had been composed of three integrated circuits in the first generation of a product are often replaced with one or two chips. Once some experience is gained with early generations of printed circuit boards, changes are made to improve performance, ease manufacturing, and improve electromagnetic compatibility. Software changes are sometimes implemented to add new signal processing capabilities or modulations. Whenever these changes appear likely to affect compliance, manufacturers have an obligation to test for compliance. So long as such an evaluation has been conducted and documented, little need should exist for further authorization. The additional delay associated with the permissive change process can be quite disruptive as it adds significant complications to manufacturing planning. In addition, greater flexibility in the permissive change rules would free Commission resources to process initial applications, thereby helping to meet the 10 day processing goal.

For equipment now subject to type acceptance and to certification Motorola urges the Commission to implement the following approach: